

consider a petition for post-conviction relief if it was filed outside the one-year statute of limitation unless (1) the claim in the petition is based upon a final ruling of an appellate court establishing a constitutional right that was not recognized at the time of trial, if retrospective application of that right is required, (2) the claim in the petition is based upon new scientific evidence establishing that such petitioner is actually innocent of the offense or offenses for which the petitioner was convicted, or (3) the claim in the petition seeks relief from a sentence that was enhanced because of a previous conviction and such conviction in the case in which the claim is asserted was not a guilty plea with an agreed sentence, and the previous conviction has subsequently been held to be invalid.

The judgments in this case became final in 1980, and the petitioner did not appeal. The petitioner filed the present petition for post-conviction relief on May 17, 1996. Accordingly, the petition is governed by the 1995 Post-Conviction Act, and it was filed outside the statute of limitation set forth in T.C.A. § 40-30-202(a).¹ Moreover, the petitioner has failed to show that any of his claims fall within one of the exceptions set forth in T.C.A. § 40-30-202(b).

It is, therefore, ORDERED that the state's motion to affirm the judgment of the trial court under Rule 20, Rules of the Court of Criminal Appeals, is granted, and the judgment of the trial court is affirmed.

Enter, this the ____ day of July, 1997.

JOE G. RILEY, JUDGE

¹ The petitioner claims that he mailed his petition to the trial court before May 10, 1996. The petitioner is apparently suggesting that the petition was timely filed under the 1995 Act. This suggestion, however, is without merit. See, e.g., Johnson v. State, No. 02C01-9605-CR-00136 (Tenn. Crim. App., June 10, 1997); Daniels v. State, No. 03C01-9606-CC-00244 (Tenn. Crim. App., Feb. 27, 1997); Butler v. State, No. 02C01-9509-CR-00289 (Tenn. Crim. App., Dec. 2, 1996).

JOE B. JONES, PRESIDING JUDGE

PAUL G. SUMMERS, JUDGE